

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

UNITED STATES OF AMERICA)
)
)
v.) CRIMINAL ACTION NO.
)
 1:07cr211-MHT
JEFFREY LYNN HOLLAND) (WO)

OPINION AND ORDER

This cause is before the court on defendant Jeffrey Lynn Holland's unopposed motion to continue. For the reasons set forth below, the court finds that jury selection and trial, now set for July 21, 2008, should be continued pursuant to 18 U.S.C. § 3161(h)(8).

While the granting of a continuance is left to the sound discretion of the trial judge, United States v. Stitzer, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy

days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

Id. § 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." Id. § 3161(h)(8)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." Id. § 3161(h)(8)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Holland in a speedy trial. Holland is undergoing a repeat course of chemotherapy and radiation for nasopharyngeal cancer that is expected to

last several weeks. Holland will then need additional time to recover from this treatment in order to be able to discuss a resolution of this matter with his counsel.

Accordingly, it is ORDERED as follows:

(1) Defendant Jeffrey Lynn Holland's motion for continuance (doc. no. 16) is granted.

(2) The jury selection and trial, now set for July 21, 2008, are reset for November 3, 2008, at 10:00 a.m., in the Federal Building & United States Courthouse, 100 West Troy Street, Dothan, Alabama.

DONE, this the 25th day of June, 2008.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE